

ANALYSIS OF ORIGINAL BILL

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Bill Number: AB 1232

Related Bills: See Legislative History Telephone: 845-3036

Introduced Date: 2/28/97

Attorney: Doug Bramhall

Sponsor:

SUBJECT: Jobs Tax Credit/Increase to 15% of wages paid to Each Employee Certified By Employment Development Department

SUMMARY

Under the Personal Income Tax Law (PITL) and Bank and Corporation Tax Law (B&CTL), this bill would reinstate a credit for employers equal to 15% of the wages paid to each employee certified by the Employment Development Department to meet certain requirements. The credit would not be allowed to exceed \$300 per employee per year, or \$600 in the aggregate for each employee.

The analysis will address the provision requiring the Employment Development Department (EDD) to certify employees only as it impacts the Franchise Tax Board (FTB).

EFFECTIVE DATE

As a tax levy, this bill would take effect immediately upon enactment and would apply to taxable or income years beginning on or after January 1, 1997.

LEGISLATIVE HISTORY

SB 71 (Ch. 1564, Stats. 1985), SB 1614 (Ch. 1087, Stats. 1986), SB 1167 (97).

BACKGROUND

For taxable and income years beginning on or after January 1, 1979, California law allowed the Jobs Tax Credit for wages paid to individuals in certain disadvantaged and disabled categories. It was modeled to a certain extent on the federal Targeted Jobs Tax Credit, which is now expired, but was different in many respects.

The California credit was 10% of the first \$3,000 of wages paid to each qualified individual during the 24-month period beginning on the date of employment, with a \$600 limit on the aggregate credit for each employee.

While the State Jobs Tax Credit appears in the law, the credit specifies that qualifying wages must be paid to an employee hired by December 31, 1993.

DEPARTMENTS THAT MAY BE AFFECTED:

___ STATE MANDATE

___ GOVERNOR'S APPOINTMENT

Department Director Position:

___ S ___ O
___ SA ___ OUA
___X N ___ NP
___ NA ___ NAR
___ PENDING

Agency Secretary Position:

___ S ___ O
___ SA ___ OUA
___ N ___ NP
___ NA ___ NAR
DEFER TO ___

GOVERNOR'S OFFICE USE

Position Approved ___
Position Disapproved ___
Position Noted ___

Department Director

Gerald H. Goldberg 3/27/97

Agency Secretary

Date

By:

Date:

Therefore, the credit has been essentially inoperative since December 31, 1995.

To qualify for the credit, the employer was required to have received written certification from the EDD that the employee met the requirements of Section 328 of the Unemployment Insurance Code (UIC), or to have requested in writing that certification from the EDD. If the employee has received a written preliminary determination, then the employee would, within five days of being hired, be required to have either received in writing or to have requested in writing the certification described above.

UIC Section 328 refers to an individual who:

- is a recipient of aid under Aid to Families with Dependent Children;
- is a registrant in a work incentive program;
- is a recipient of aid under the Supplemental Security Income/State Supplementary Program for the Aged, Blind and Disabled;
- is a recipient, for any period of at least 30 days ending with the employment period, of general assistance from a county;
- is a qualified summer youth employee who is employed by the employer between May 1 and September 15, certified as being 16-18 years of age, who has not previously been an employee of the employer and is certified as being a member of an economically disadvantaged family;
- is a recipient of aid under the refugee cash assistance program; or
- has a physical handicap or mental disability which constitutes or results in a substantial handicap to employment, or has completed or is participating in an individualized written vocational rehabilitation program.

The credit was not allowed if the individual was related to the employer as defined under federal law.

The credit was not allowed if the employee had, prior to the hiring date, been employed by the taxpayer at any time when he or she was not certified to meet the eligibility requirements under UIC Section 328.

If certification had been revoked, the credit did not apply to wages paid by the employer after the date on which the notice of revocation was received.

This credit was allowed in addition to any deduction to which the taxpayer was entitled.

The taxpayer was allowed to elect not to have this section apply and was allowed to revoke that election any time before the four-year statute of limitations for filing an amended return expired.

An employer who succeeded a prior employer could receive the credit in the same manner as if those wages paid by the prior employer had been paid by the successor employer.

Since this credit did not specify otherwise, the general rules in income tax law regarding the division of credits between taxpayers who share in the costs applied. This credit did not reduce regular tax below tentative minimum tax for alternative minimum tax purposes.

SPECIFIC FINDINGS

Federal law provides special tax incentives designed to encourage employers to hire or train specified individuals, usually the unemployed or those in need of additional training. Federal programs include the federal Vocational Education Act of 1963 and the Greater Avenues for Independence (GAIN) Program. California law makes reference to these federal programs in describing individuals qualified to participate in certain state programs.

Existing state law authorizes hiring tax credits, as well as other business tax incentives, which are intended to encourage business expansion and hiring in designated areas, including Enterprise Zones (EZs), the Los Angeles Revitalization Zone (LARZ), and Local Agency Military Base Recovery Areas (LAMBRAs). In addition to these special tax incentives, existing state and federal laws allow a deduction for business expenses, including employee salaries.

Under the PITL and B&CTL, **this bill** would reinstate the Jobs Tax Credit by striking the requirement that the wages must be paid to an individual hired by December 31, 1993. This credit, as discussed above, would be operative except that the credit percentage would be 15% rather than the previous 10%.

Policy Considerations

Most credits enacted contain a sunset date to ensure legislative review of the credit's effectiveness. This credit would now be allowed indefinitely.

When this credit was first enacted, the LARZ, EZs and LAMBRAs were not part of state law. Thus taxpayers did not have the opportunity to take multiple credits for the same expenses. However, now that those credits are available, the author may wish to consider whether taxpayers should be allowed to claim this credit in addition to the other credits and deductions to which the taxpayer is allowed.

Conflicting tax policies come into play whenever a credit is provided for an expense item for which preferential treatment is already allowed in the form of an expense deduction or depreciation deduction. This new credit would have the effect of providing a double benefit for the wages expense. On the other hand, disallowing otherwise allowable deductions to eliminate the double benefit creates a state and federal difference, which is contrary to the state's general conformity policy. In the case of a one-time expense deduction, the reduction of that expense would not create an ongoing difference.

Since many programs which would qualify an employee for this credit may have been altered by the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 and corresponding state acts, the author may want to consider whether those criteria are still appropriate, or whether reference should be made to an individual who would have qualified for those programs prior to recent amendments.

This bill would allow a credit for wages paid to certain individuals. However, this credit would not require that employers retain the employee for a certain period of time. Some wage credits, such as the enterprise zone credit, provide a "recapture" to ensure that employees are retained for a specified period of time.

Implementation Consideration

This bill could be implemented during the department's annual updates.

Technical Considerations

This bill would grant a credit to an employer for wages paid to an employee. However, in some places, the bill refers to, but does not define a "qualified employee" or "qualifying employee." Amendments 2, 3, 5 and 6 would resolve this by striking the terms "qualified" and "qualifying" from the description of an employee.

This bill would allow a credit for wages paid to an employee. The preferred reference is for wages paid or incurred. Amendments 1 and 4 would correct this by allowing the credit for wages paid or incurred.

FISCAL IMPACT

Departmental Costs

Implementation of this bill would not significantly impact the department's costs.

Tax Revenue Estimate

This bill is estimated to impact PIT and B&CT revenue as shown in the following table.

Fiscal Year Cash Flow Effective 1/1/97 Enactment Assumed After June 30, 1997 \$ Millions		
1997-8	1998-9	1999-0
(\$1)	(\$1)	(\$1)

This analysis does not consider the possible changes in employment, personal income, or gross state product that could result from this measure.

Tax Revenue Discussion

The impact of this bill would depend on the number of individuals claiming the credit and the average credit applied against tax liabilities.

This estimate was based on departmental actuals for a previous Job Tax Credit. According to departmental actuals, the average annual credit claimed for the previous Job Tax Credit (a 10% credit with a \$600 maximum per employee) was approximately \$650,000 (900 taxpayers on average claimed the credit annually). Applying a 2% growth in credits claimed and allowing for a 15% credit would allow taxpayers a credit up to \$450 (\$3000 x 15%) in the first year under the \$600 cap per employee. This methodology results in a revenue loss of approximately \$1 million annually in applied credits.

POSITION

Neutral.

Department staff's position is determined by administrative considerations and does not take into account policy considerations or revenue impact on the state. However, these issues are discussed in the analysis.

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FRANCHISE TAX BOARD'S
PROPOSED AMENDMENTS TO AB 1232
As Introduced February 28, 1997

AMENDMENT 1

On page 2, line 5, after "paid," insert:
or incurred

AMENDMENT 2

On page 2, line 27, strike " qualified."

AMENDMENT 3

On page 3, line 24, strike "qualifying."

AMENDMENT 4

On page 4, line 22, after "paid," insert:
or incurred

AMENDMENT 5

On page 5, line 4, strike " qualified."

AMENDMENT 6

On page 5, line 36, strike "qualifying."